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COMMITTEE AGAINST TORTURE

Seventeenth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 268th MEETING

Held at the Palais des Nations, Geneva
on Thursday, 14 November 1996, at 10 a.m.

Chairman: Mr. DIPANDA MOUELLE

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.268/Add.1.

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Second periodic report of the Russian Federation (continued) (CAT/C/17/Add.15)

1. At the invitation of the Chairman, Mr. Kolossovski, Mr. Kartashkin, Mr. Katyshev, Mr. Butaev, Mr. Orlov, Mr. Chtcherbak, Mr. Malguinov, Mr. Boychenko and Mr. Loukiantsev (Russian Federation) took places at the Committee table.

2. Mr. PIKIS (Country Rapporteur) read out the conclusions and recommendations of the Committee on the second periodic report of the Russian Federation:

"Conclusions and recommendations of the Committee against Torture

Russian Federation

1. The Committee considered the second periodic report of the Russian Federation (CAT/C/17/Add.15) at its 264th, 265th and 268th meetings held on 12 and 14 November 1996 (CAT/C/SR.264, 265 and 268) and has adopted the following conclusions and recommendations.

A. Introduction

2. The second periodic report of the Russian Federation was not submitted on time, a fact that may be attributed to the transitional state that the country undergoes. The report conforms, on the whole, to the guidelines adopted by the Committee for the submission of State reports.

3. The Committee expresses its appreciation to the representatives of the Russian Federation for their presentation of the report and more so for the effort made to answer almost all of the many questions raised by the Rapporteur, the Co-Rapporteur and the members of the Committee.

B. Positive aspects

4. The Constitution of the Russian Federation safeguards in a comprehensive way human rights, including the right to personal safety and bodily integrity.

5. The Constitution prohibits torture and every form of degrading treatment of the individual.

6. The introduction of a new Criminal Code is welcomed particularly in view of the criminalization of a series of acts the commitment of which by agents of law enforcement would constitute torture.

7. The setting-up of the Presidential Commission on Human Rights and the establishment of an Ombudsman on human rights are no doubt steps in

the right direction. The positive aspects of the creation of these offices will be further enhanced if their powers to monitor the application of the Convention and deal with abuses are comprehensively defined.

8. The withdrawal of the reservation to article 20 and the declarations of acceptance of the procedures under articles 21 and 22 of the Convention cannot but be regarded as salutary.

9. The allocation of added resources for the improvement of prison conditions, as referred to by the delegation, is a step forward.

10. The will to reform State institutions, albeit with difficulty, in order to bring them into conformity with the postulates of the Constitution and fundamental human rights norms is duly noted.

C. Factors and difficulties impeding the application of the provisions of the Convention

11. The Committee acknowledges the existence of the following difficulties:

(a) The break with the past left an institutional vacuum that is proving difficult to fill. The State apparatus, as experience teaches, is resistant to change;

(b) The reorientation of State institutions and machinery is per se a difficult process. Of course, this is not a reason for pause. The awareness of these obstacles should lead those in authority to redouble the efforts to overcome them;

(c) The absence of properly trained personnel in sufficient numbers to make possible a swift change to the legal framework and the running of the State which is envisaged in the Constitution;

(d) The vastness of the country and diffusion of authority between central and regional authorities poses additional difficulties in the way of establishing the new order;

(e) The lack of adequate resources to address the problems of change from the old to the new legal order; the allocation of the necessary resources for the reform of legal practices should be seen as a priority.

D. Subjects of concern

12. The Committee is concerned about the following:

(a) The failure to create a specific crime of torture in domestic law, as required by article 4 of the Convention;

(b) Presidential Decrees Nos. 1,815 of 2 November 1993, 1,226 of 14 June 1994 and 1,025 of 10 July 1996, allowing the detention of suspects incommunicado for up to 9 days in one case and 30 days in the

other cases, leave the door open to the abuse of the rights of detainees;

(c) Widespread allegations of torture and ill-treatment of suspects and persons in custody with a view to securing confessions and, generally, allegations of ill-treatment of detainees. Absence of effective machinery to address such complaints promptly;

(d) The fact that, according to the material presented to the Committee, young soldiers in the Russian army were brutalized by older soldiers without the authorities taking appropriate remedial measures;

(e) The failure to establish an effective machinery for the prompt examination of prisoners' complaints about ill-treatment and conditions of stay in prisons;

(f) The slow process of harmonizing domestic legislation with the Constitutional order concerning human rights. The disharmony leaves a gap between legal order respecting human rights established under the Constitution and the application of the law;

(g) Overcrowding in prisons made all the worse because of poor and insanitary conditions prevailing therein;

(h) Lack of proper training of police and prison personnel and, generally, the personnel of agencies engaged in the enforcement of the law with regard to the rights of suspects and prisoners and their duties under the law;

(i) Lack of appropriate measures to give comprehensive effect to the provisions of article 3 of the Convention and its applicability in all circumstances, including extradition;

(j) Absence of extraterritorial jurisdiction makes difficult or impossible the implementation of article 5, paragraph 1 (b), of the Convention;

(k) Widespread reported abuses of human rights in the conflict in Chechnya, including serious acts of torture, coupled with apparent failure to check them and address them speedily and effectively.

E. Recommendations

13. The Committee recommends to the State party the following:

(a) The criminalization of torture as defined in the Convention as a distinct crime attracting sufficiently severe punishment to reflect the gravity of the offence;

(b) Expediting the process of training of personnel, including medical personnel, of all agencies engaged in the enforcement of the law and detention of prisoners as to their powers and duties under the law;

(c) The adoption of programmes to inform detainees and the public of their rights and the means available under the law to protect them;

(d) The establishment of an effective machinery to monitor the conditions under which investigations of crimes are conducted, the conditions under which persons are held in custody and conditions in prisons;

(e) The establishment of an appropriate process for the prompt investigation of complaints of suspects, detainees and prisoners and the prosecution of the offenders;

(f) Radical improvement of conditions in prisons, including the extension of the space available, the facilities provided, the food given and sanitation;

(g) Abolition of acts, rules and regulations allowing remand in custody for longer than 48 hours without judicial authorization. Abolition of acts, rules and regulations limiting access to legal assistance. Unimpeded access to counsel should be safeguarded at all times;

(h) The establishment of an independent Committee to investigate allegations of torture, inhuman and degrading treatment committed by the military forces of the Russian Federation and Chechen separatists with a view to bringing to justice those against whom there is evidence tending to establish their involvement or complicity in such acts."

3. Mr. KOLOSSOVSKI (Russian Federation) expressed his delegation's satisfaction at the useful dialogue that had taken place with the Committee and at the Committee's conclusions and recommendations, which would be transmitted to the competent Russian authorities and considered with the closest attention.

4. The CHAIRMAN thanked the delegation of the Russian Federation for its frank cooperation. The Committee looked forward to resuming its dialogue with the Russian Federation at a future date.

5. The delegation of the Russian Federation withdrew.

The public part of the meeting rose at 10.25 a.m.